

**Excerpts
Planning Commission Minutes
July 9, 2003**

Application Nos. ZM-75-03, City of Williamsburg and Heritage Humane Society: Request to amend the York County Zoning Map by reclassifying approximately 4.2 acres of land located on Waller Mill Road (Route 713) approximately 0.76-mile northeast of its intersection with Mooretown Road (Route 603) from RC (Resource Conservation) to RR (Rural Residential). The property is further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4. The Comprehensive Plan designates this area for Conservation.

Mr. Tim Cross introduced the applications, remarking that they will be treated as one for the purposes of the public hearing. He summarized the memorandum to the Commission dated June 25, 2003 in which the staff recommended approval of both applications ZM-75-03 and UP-620-03. Mr. Cross corrected information contained in the staff memorandum, noting that the proposed increase in floor area is 195% rather than 95%.

Mr. Ptasznik inquired about the separate shelter proposed for animals involved in pending court cases, and Mr. Cross explained it would be a secure fenced area located at the rear of the proposed expansion for animals that need to be kept separate from the others.

Mr. Davis commented that a condition might be considered if the application is approved to require the zoning to revert to Resource Conservation should the site cease to be used for an animal shelter. He did not think a property so close to a power line should ever be zoned for residential use.

Mr. Simasek opened the combined public hearing for the two applications.

Sheldon Franck, Esq., 104 Exeter Court, attorney representing the Heritage Humane Society, introduced the project engineer, Mr. Steve Wigley, and members of the Society. Mr. Franck pointed out that the combination of the shelter's physical condition, age and lack of susceptibility to upgrading combined with state regulations prevents its continued operation unless a new facility is constructed. All efforts to upgrade it have been made but upgrades alone do not comply with new state regulations.

Mr. Franck believed the three localities working together with the Heritage Humane Society to meet a compelling public need and provide an excellent example of a public/private partnership and regional cooperation. The expanded facility should reduce the impact on the environment and neighbors by improving the water quality, reducing noise levels and enhancing the overall appearance of the site, he added. Mr. Franck noted the difficulty of finding suitable locations for animal shelters but believed the present site is ideal.

Mr. Steve Wigley, Vanasse Hangen Brustlin, Inc., 477 McLaws Circle, Williamsburg, responded to a question by **Mr. Ptasznik** by explaining that stormwater swales will direct water from the parking lot to the stormwater basin in the rear of the building.

Mr. Simasek inquired about the target dates for construction. **Mr. Franck** said a successful fund raising effort would determine when the design and construction could take place. He added that operation of the shelter would continue during construction of the new facility.

Mr. Harvell said he had visited the shelter and was impressed with its management, cleanliness, and commitment of the staff and caregivers.

Mr. William C. Wilkins, 433 Waller Mill Road, lives across the street from the animal shelter and he talked about the history of the site and stated that in the 1940's to the 1960's it was the location of a firefighting school during which barrels of oil were dumped into a pit or loaded onto a tower and set afire. Hundreds of barrels of oil, some of them leaking, were also stored on the site that is now the animal shelter. Mr. Wilkins said clay was laid and compacted on top of the soil before the animal shelter was constructed. He raised the question of whether the proposed construction might disturb the buried oil.

Mr. Wilkins was also concerned that the proposed construction would run a drain line across Waller Mill Road to a ravine on his side and, while protecting the Waller Mill Reservoir, would ultimately pollute the Chesapeake Bay.

Mr. Wilkins suggested that enlarging the Humane Society facilities would further decrease his property value and that a more suitable location would be next to the juvenile detention center on Route 143.

Chair Simasek closed the public hearing, seeing no others who wished to speak.

Mr. Barnett addressed Mr. Davis's earlier comment about adding a reversion clause in the event that the site ceases being used for the shelter. Mr. Barnett said property cannot be rezoned with a stated time limit but, theoretically, the owner could voluntarily proffer conditional zoning imposing those kinds of limitations as an inducement for rezoning.

Mr. Hamilton asked if the City of Williamsburg might apply to rezone all or part of its adjacent property. Mr. Cross responded they could apply to rezone but that would not be the normal pattern. A more likely scenario would be for the City to increase the watershed.

Mr. Simasek asked if the Colonial Williamsburg Foundation was notified of the pending application. Mr. Cross confirmed that it was and CW called to get clarification, then had no objection.

Mr. Ptasznik asked if the City of Williamsburg commonly seeks out parcels near the watershed "to build their conservation bank" so that it can use other properties for other needs, and Mr. Cross said that is a pattern and the City has purchased lots in the industrial park in order to

prevent them from being developed. Upon hearing that, Mr. Ptasznik did not think the City's adjacent property would revert to any other use. He therefore supported a recommendation of approval.

Mr. Barba agreed and added that the Heritage Humane Society provides a great public service. He then moved adoption of Resolution PC93-15 to recommend approval of the rezoning request.

PC03-15

On motion of Mr. Barba, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO REZONE APPROXIMATELY 4.2 ACRES ON WALLER MILL ROAD (ROUTE 713) FROM RC (RESOURCE CONSERVATION) TO RR (RURAL RESIDENTIAL)

WHEREAS, the City of Williamsburg and the Heritage Humane Society have submitted Application No. ZM-75-03 to amend the York County Zoning Map by reclassifying from RC (Resource Conservation) to RR (Rural Residential) approximately 4.2 acres of land located along Waller Mill Road (Route 713) approximately 0.76-mile northeast of its intersection with Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of July, 2003, that Application No. ZM-75-03 be, and it hereby is, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from RC (Resource Conservation) to RR (Rural Residential) approximately 4.2 acres of land located along Waller Mill Road (Route 713) approximately 0.76-mile northeast of its intersection with Mooretown Road (Route 603), further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4 and more fully described and identified as follows:

Beginning at a point at the intersection of the southwest corner of the property belonging to the City of Williamsburg and the right-of-way of Route 713, thence traveling along said right-of-way in a southwest direction a distance of 100.01' to a point, thence N 45° 43' 43" W a distance of 371.33' to a point, thence N 39° 49'

58" E a distance of 438.33' to a point, thence S 61° 52' 01" E a distance of 327.52' to a point on said right-of-way of Route 713, thence along said right-of-way in a southwest direction a distance of 442.29' to the point of beginning, being all that property owned by the City of Williamsburg, GPIN# D16D-4258-0831, recorded in the Clerk's Office of York County in Deed Book 694 at page 232, and a portion of the property owned by the City of Williamsburg, GPIN# D17D-4411-0443.

Mr. Barba moved to adopt Resolution PC03-16(R), recommending use permit approval.

PC03-16(R)

On motion of Mr. Barba, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A MAJOR EXPANSION OF AN ANIMAL SHELTER LOCATED AT 430 WALLER MILL ROAD (ROUTE 713)

WHEREAS, the City of Williamsburg and the Heritage Humane Society have submitted Application No. UP-620-03, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, which seeks to expand an animal shelter by constructing a 14,000 square foot building to replace an existing 2,720-square foot building on property located at 430 Waller Mill Road (Route 713) approximately 0.76-mile northeast of its intersection with Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4; and

WHEREAS, the proposed expansion exceeds 25% and therefore constitutes a major expansion of a legally conforming special use, pending the approval of Application No. ZM-75-03; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of July, 2003, that Application No. UP-620-03 be, and it hereby is, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a major expansion of an animal shelter located at 430 Waller Mill Road (Route 713) approximately 0.76-

mile northeast of its intersection with Mooretown Road (Route 603), further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4 and more fully described and identified as follows:

Beginning at a point at the intersection of the southwest corner of the property belonging to the City of Williamsburg and the right-of-way of Route 713, thence traveling along said right-of-way in a southwest direction a distance of 100.01' to a point, thence N 45° 43' 43" W a distance of 371.33' to a point, thence N 39° 49' 58" E a distance of 438.33' to a point, thence S 61° 52' 01" E a distance of 327.52' to a point on said right-of-way of Route 713, thence along said right-of-way in a southwest direction a distance of 442.29' to the point of beginning, being all that property owned by the City of Williamsburg, GPIN# D16D-4258-0831, recorded in the Clerk's Office of York County in Deed Book 694 at page 232, and a portion of the property owned by the City of Williamsburg, GPIN# D17D-4411-0443.

BE IT FURTHER RESOLVED that the Commission recommends that approval of this application be subject to the following conditions:

1. This approval shall authorize the expansion of an animal shelter located at 430 Waller Mill Road (Route 713) approximately 0.76-mile northeast of its intersection with Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4. Said expansion shall consist of the construction of a new 14,000-square foot building with associated off-street parking to replace an existing 2,720-square foot building on the referenced property.
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any land clearing or construction activities on the site. Said site plan shall be in substantial conformance with the Conceptual Plan titled "Heritage Humane Society Animal Shelter," prepared by VHB, Inc. and dated April 1, 2003, except as modified herein. This shall not be construed to prohibit non-material and insignificant modifications, shifts in location, or slight changes in shape or configuration.
3. Except as necessary to (a) reconstruct the entrance to the site, (b) install an identification sign, and (c) open limited sight lines for the sign, no clearing shall occur within the required 20-foot front landscape yard along the street right-of-way for Waller Mill Road (in the area labeled "Undisturbed Woodland" on the reference conceptual plan). The landscape yard shall be left in an undisturbed natural state, shall be supplemented as necessary with additional plantings, consisting of a mix of deciduous and evergreen trees and shrubs, as depicted on the reference concept plan.
4. In accordance with Section 24.1-260(f) of the Zoning Ordinance, all outdoor lighting in excess of 3,000 initial lumens associated with the development shall be designed, installed,

and maintained to prevent unreasonable or objectionable glare onto Waller Mill Road and adjacent properties and shall incorporate the use of full cut-off luminaires.

5. A minimum of 32 off-street parking spaces shall be provided as part of the first construction phase – consisting of approximately 11,000 square feet of gross floor area exclusive of the accessory Spayth Building – of the expansion. Prior to the commencement of the second construction phase, the applicant shall submit to the Zoning Administrator a site-specific parking study to determine if the 32 parking spaces will be sufficient to accommodate the anticipated parking demand associated with animal shelter at full development (i.e., 14,000 square feet of gross floor area exclusive of the accessory Spayth Building). Based on his review of the study, the Zoning Administrator shall determine if additional parking is needed and, if so, shall require additional spaces to be provided as a condition of approval for the second construction phase.
6. Development of the subject parcel shall be in accordance with the requirements of the Watershed Management and Protection Area overlay district contained in Section 24.1-376 of the Zoning Ordinance. Accordingly, the above-referenced site plan shall be accompanied by an impact study prepared in accordance with the requirements set forth in Section 24.1-376(f) of the Zoning Ordinance.
7. All animals shall be kept within a completely enclosed building in pens or other enclosures designed and maintained for secure confinement, provided, however, that the shelter may provide an outdoor “court hold area” for the sole purpose of keeping animals that are being held pending the outcome of a court case and require confinement in a secure facility separate from the other animals. Said “court hold area” shall be enclosed with fencing or walls and shall be located to the rear of the shelter in the general location depicted on the conceptual plan.
8. The new building shall be adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other properties or uses in the area.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Mr. Simasek requested the staff to make sure that Mr. Wilkins’ concerns are addressed during the site plan review.